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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/612,238	07/07/2000	Jos Willy Ghislain Corneel De Sadeleer	PM 271542/CER-97	8729

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

CORBIN, ARTHUR L

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 05/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/612,238

Applicant(s)

DESADLEER

Examiner

ARTHUR L. COBBIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 2-14-03
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 12-28 is/are pending in the application.
- Of the above claim(s) 12 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 13-28 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 21, 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis in claim 21 for: "the maximal ~~torque~~^{force}" (claim 21, lines 5-6), as set forth in paragraph No. 2, Paper No. 8; "the later stage of the ~~reading~~^{recast}" (claim 27), as set forth in paragraph No. 2, Paper No. 8; or "the maximal value" (claim 26). Claim 26 is also indefinite in reciting that the ~~reading~~^{that} is ~~heated~~^{al} before 75% of the maximal value is reached since claim 21 recites, "at least 75%" of the maximal ~~torque~~^{force} is reached, as set forth in paragraph No. 2, Paper No. 8. Thus, claim 26 does not further limit claim 21. Corrections are required without new matter.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw et al or Kobayashi et al.

Applicant is referred to the reasoning set forth in paragraph No. 5, Paper No. 8.

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21-27 (since and after filed - gluten is not denatured)
5. Claims ~~43-27~~ are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto et al. Applicant is referred to the reasoning set forth in paragraph No. 5, Paper No. 8.

referred
6. Claim 12 stands ⁵withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

7. Applicant's arguments filed February 14, 2003 have been fully considered but they are not persuasive. The fact that Hashimoto et al ~~reads~~⁶ denatured gluten is irrelevant since applicant's claims 13-27 do not preclude treatment of denatured gluten.

Applicant's comments with regard to Kobayashi et al are not convincing since applicant's claims do not preclude developing wheat gluten in combination with other materials, as occurs in a Kobayashi et al. Kobayashi clearly discloses that gluten is ~~kneaded~~⁷ in the presence of glycerol, as occurs in applicant's invention.

Lastly, Shaw et al is clearly pertinent and properly applied against applicant's claims since wheat gluten is kneaded in a composition which includes glycerol and less than 20% water, viz. 15% water (Ex. 1 of Shaw et al). Moreover, the amount of water present during kneading of the wheat gluten in applicant's invention has not been shown to be critical.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication from the examiner should be directed to Arthur Corbin whose telephone number is (703) 308-3850. The examiner can generally be reached on Tuesday--Friday from 10 a.m. to 7:30 p.m. and on alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 305-7115 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

A. Corbin/dh
May 12, 2003


ARTHUR L. CORBIN
PRIMARY EXAMINER
5-12-03